REMARKS

The Office Action dated September 9, 2010, has been received and carefully reviewed. Claims 15 and 51 are pending in the application. Claims 1, 3-8, 10-12, 17, 19, 20, 22-30, 33-38, 41-43, 45-48, and 52-58 are withdrawn from consideration. Reconsideration of the subject application is respectfully requested in view of the following remarks.

The Office has rejected claims 15 and 51 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement because the specification, as originally filed, allegedly fails to disclose that the second member secures one of the fibers and the first member secures the other fiber. The Office asserts that the specification and drawings disclose only the first member securing the delivery fiber and the second member securing the collection fiber. Applicant continues to disagree.

A claim is sufficiently described when the applicant has shown possession of the invention by describing the claimed invention with all its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. Manual of Patent Examining Procedure §2163.I. (8th Ed., 8th Rev., 2010). While there is no requirement that the specification contain the claim language *in haec verba*, newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure. Id., §2163.I.B. If an application does not specifically describe the claimed invention through drawings, the invention may still be set forth in terms of distinguishing identifying characteristics as

evidenced by descriptions of the invention that are sufficiently detailed to show that the applicant was in possession of the claimed invention. Id., §2163.II.A.3.a.i.C. This determination can be made by finding that the application as filed describes the complete structure of the claimed invention as a whole, or finding that the specification discloses other relevant identifying characteristics sufficient to describe the claimed invention. Id. That showing has been made here.

Claim 51 presently recites the following:

> A catheter tip apparatus, comprising:
> an elongated housing rotatably supported on a flexible catheter sheath, said housing supporting first and second reflective surfaces, said first reflective surface and second reflective surfaces being longitudinally spaced apart from one another;
> a delivery fiber having a distal end adjacent to said first reflective surface; and
> a collection fiber having a distal end adjacent to said second reflective surface;
> wherein said housing includes first and second members, said reflective surfaces being integral with said first member; and wherein said first member mates with the second member, said second member enclosing the first member and securing one of said fibers and said frame member securing the other fiber.

There is support in at least original claim 14 for the language of claim 51 (though, in the previous response, Applicants mistakenly recited claim 1 as providing support for claim 51), and it is well established that original claims constitute their own description. See *In re Koller*, 613 F.2d 819, 204 USPQ 702 (CCPA 1980) (original claims constitute their own description). Original claim 14, rewritten in independent form, recites the following:

> [A catheter tip apparatus arranged in a catheter for the delivery and collection of an energy signal to permit subsequent light energy beam analysis of body tissue by the collected signal, comprising:

an elongated housing supporting a first reflective surface and a second reflective surface, said first reflective surface and said second reflective surface being longitudinally spaced apart from one another;

a first flexible, elongated energy bearing delivery fiber having a distalmost end arranged adjacent said first reflective surface;

a second flexible, elongated energy bearing delivery fiber having a distalmost end arranged adjacent said second reflective surface;

said housing rotatably supported on a flexible catheter sheath for insertion of said catheter into a mammalian body for tissue analysis thereof;

wherein said reflective surfaces are unitary portions of said housing, and] wherein said housing has a proximal end and a distal end, and said proximal end mates with a housing enclosure, said enclosure providing a securement means for said energy collecting fiber and said housing provides a securement means for said delivery fiber.

Likewise, the first and second housing members shown in Figs. 5(A) & (B) are described as securing the delivery and collection fibers, respectively.

Nevertheless, while original claim 14 specifically recites that the housing enclosure secures the delivery fiber and the housing provides securement means for the delivery fiber, and figures 5(a) and 5(b) describe securing the delivery and collection fibers, the specification makes it clear that a fiber can be used for delivery, collection, or both, which makes the distinction between a "delivery" and "collection" fiber irrelevant. For example, Figures 8 and 9 show schematic representation of the catheter tip in operation – not separate embodiments of the invention, as contemplated by the Examiner. In connection with Figure 9, it is disclosed that "it is also contemplated that each fiber may be used for both delivery and collection of light energy." (Specification,

31). As such, a delivery fiber can be a collection fiber and a collection fiber can be a delivery fiber.

Figure 5(B) also shows that the housing secures both the delivery and the collection fiber, which indicates there is ample support for the first member supporting either, or both, of the two fibers. One of ordinary skill would understand that the first member could secure either the collection or the delivery fiber from this disclosure.

One of ordinary skill would also understand the specification to inherently disclose the second member securing either the collection or the delivery fiber. While the reference numbers indicate that the housing enclosure secures the collection and the delivery fiber, and the housing enclosure, one of ordinary skill in the art would inherently recognize that either fiber shown in that figure could perform either collection or delivery of energy. This is further bolstered by the disclosure on page 31, in that one of ordinary skill would recognize that optical fibers could perform either function. One of ordinary skill in the art would thus inherently recognize that the disclosure provided sufficient support for the second member securing a first fiber and the first member securing the other fiber.

In addition, at least withdrawn claim 57 should be rejoined and allowed because it requires all the limitations of claim 15 and also finds support in the original claims. *See* M.P.E.P. § 821.04. Claim 57 presently depends from claim 51.

In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

The Examiner is invited to contact Applicant's undersigned attorney at the indicated telephone number to discuss any matter that would expedite allowance of this application.

Respectfully submitted,

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Date

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